

## REMARKS

Claims 1-18 are pending in the above-identified application.

Claims 1, 3, 7 and 18 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Alsenz* (U.S. Patent No. 4,697,431) in view of Japanese reference 2001-133053. This rejection is respectfully traversed.

*Alsenz* discloses a method of operating a refrigeration system having a variable capacity compressor control 221 and expansion valve controller 10 that controls the superheat at the outlet of the evaporator 214 in which the expansion valve is periodically opened in order to flush the lubrication oil from the evaporator. Japanese reference 2001-133053 teaches the use of a control valve CV in order to control the delivery capacity of a variable capacity compressor CM, wherein the expansion valve 32 is a normal charge system expansion valve (See Abstract.)

The Examiner acknowledges that *Alsenz* does not expressly teach the use of an electronic capacity control valve and applies Japanese reference 2001-133053 for its disclosure of an electronic capacity control valve.

One of ordinary skill in the art at the time the invention would not have been motivated by Japanese reference 2001-133053 to modify *Alsenz* to include an electronic capacity control valve that acts to forcibly eliminate the superheat of the refrigerant at the outlet of the evaporator (See Claim 1.) The electronic capacity control valve disclosed in Japanese Reference 2001-133053 controls the delivery capacity of the compressor CM and the flow rate of refrigerant in the refrigerant circulation circuit and *does not* forcibly eliminate the superheat of the refrigerant at the outlet of the evaporator (in order to flush the lubrication oil from the evaporator.)

Moreover, the air conditioner unit disclosed in Japanese Reference 2001-133053 has a normally charged system expansion valve. The refrigeration cycle in the above-identified application cannot achieve its intended flushing function with a normally charged thermostatic expansion valve, since it controls the refrigerant so as to always have preset superheat.

As claims 2-17 depend from claim 1, they should likewise be allowable in light of the above comments in regard to the §103 rejection by nature of their dependency. Moreover, for the reasons stated above, claim 18 should likewise be allowable.

Applicant appreciates the indication that claims 2, 4-6 and 8-17 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. However, for the reasons detailed above, it is believed that all claims are allowable.

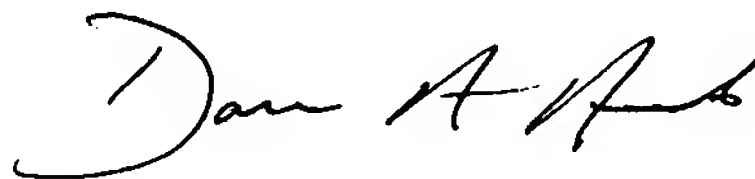
In view of the aforementioned amendments and accompanying remarks, Applicants submit that the claims, as herein amended, are in condition for allowance. Applicants request such action at an early date.

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney to arrange for an interview to expedite the disposition of this case.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

**WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP**



Darrin A. Auito  
Attorney for Applicants  
Registration No. 56,024  
Telephone: (202) 822-1100  
Facsimile: (202) 822-1111

DAA:ns

Q:\2003\030934\030934 Amendment to 12-1-0A.doc